

STATE OF MICHIGAN
DEPARTMENT OF LABOR AND ECONOMIC GROWTH
OFFICE OF FINANCIAL AND INSURANCE SERVICES
Before the Commissioner of Financial and Insurance Services

Office of Financial and Insurance Services,

Petitioner

v

Darrell Walker a/k/a Darrel L. Walker,

Respondent

Enforcement Case No. 06-3986

For the Petitioner:

James Westrin (P67066)
Office of Financial and Insurance Services
P.O. Box 30220
Lansing, MI 48909-7720

For the Respondent:

Darrell Walker
5523 Clubok
Flint, MI 48505

Issued and entered
this 28th day of March 2007
by Linda A. Watters
Commissioner

**FINAL DECISION
and
ORDER OF PROHIBITION**

On December 15, 2006, Chief Deputy Commissioner Richard Lavolette issued an Order for Hearing and Order to Respond in this case. The Order for Hearing set forth detailed allegations that Respondent had violated provisions of the Mortgage Brokers, Lenders, and Servicers Licensing Act (MCL 445.1651, *et seq.*). The Order to Respond required Respondent to take one of the following actions within 21 days: agree to a resolution of the case, file an answer to the allegations stated in the complaint, request an adjournment, or file a statement that Respondent plans to attend the hearing. Respondent failed to take any of these actions.

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Respondent.

_____ /

COMPLAINT

A hearing will be held under the legal authority and jurisdiction granted to the Commissioner of the Office of Financial and Insurance Services ("Commissioner") by laws administered by the Commissioner. This formal administrative hearing will be held in accordance with the Administrative Procedures Act of 1969, as amended, MCL 24.201 *et seq.*, and other procedural provisions of Michigan law that are appropriate.

FACTUAL ALLEGATIONS

It is alleged that the following statements are true and correct:

1. Between January 3, 2005, and April 22, 2005, the Office of Financial and Insurance Services (OFIS) conducted an investigation into the business practices of
2. Upon information and belief, Darrell Walker (Respondent) was employed by or associated with
3. Based upon the evidence obtained during the course of the OFIS investigation, OFIS has concluded that Respondent committed fraud and conducted business in

violation of the Michigan Mortgage Brokers, Lenders, and Servicers Licensing Act, MCL 445.1651 et seq. (MBLSLA).

Count I – Unlicensed Mortgage Activity

4. OFIS incorporates by reference the statements set forth in paragraphs 1-3 above as though fully set forth herein.
5. Upon information and belief, Respondent worked for and with
6. On or about March 1, 2004, Mortgage Loans R Us, Inc. authorized to open a branch office.
7. Mortgage Loans R Us, Inc. terminated its branch office affiliation on March 23, 2004.
8. did not obtain a license under the MBLSLA after his termination from Mortgage Loans R Us, Inc.
9. Respondent was never licensed to transact business as a mortgage broker, lender or servicer under the MBLSLA.
10. Notwithstanding terminated status, Respondent and continued to act as a mortgage broker using Mortgage Loans R Us, Inc.'s name.
11. was also affiliated with Premier Mortgage Funding, Inc. (Premier). However, this affiliation ceased on or about September 9, 2004.
12. Notwithstanding the fact that Premiere terminated its relationship with Respondent continued to act as a mortgage broker under Premiere's name and misrepresented that Premiere employed Respondent.

13. The Michigan Mortgage Brokers, Lenders, and Servicers Act (MBLSLA), MCLA 445.1651 et seq., Section 2(1) prohibits a person from acting as a mortgage broker, lender or servicer unless that person is licensed or exempt.
14. With respect to the transactions identified herein, neither [redacted] nor Respondent was licensed to perform mortgage broker, lending or servicing activities.
15. Respondent was not exempt from licensure under the MBLSLA with respect to the transactions identified herein.
16. Respondent has acted contrary to and in violation of the MBLSLA.

Count II-Mortgage Fraud

17. OFIS incorporates by reference the statements set forth in paragraphs 1-16 above as though fully set forth herein.
18. Upon information and belief, Respondent and [redacted] conspired to defraud lenders by using [redacted] as a straw buyer.
19. A "straw buyer" is a person who, sometimes unwittingly and/or unknowingly, assists another in effectuating a fraudulent purchase and sale of real property. A "straw buyer" allows another to purchase property using his/her identity, never intending to occupy or truly own the property. Often, "straw buyers" are paid a fee for their services.
20. "Straw buyers" generally misrepresent that the buyer intends to purchase the property for use as his/her primary residence.

21. [redacted] and Respondent were involved in two fraudulent straw buyer transactions.
22. On or about October 5, 2004, [redacted] and [redacted] entered into an agreement whereby [redacted] would purchase from [redacted] property commonly known as [redacted] Flint MI (the "Property") for \$65,000.00
23. On or about October 12, 2004, [redacted] and [redacted] allegedly executed an Addendum to their agreement whereby [redacted] agreed to loan to [redacted] \$6,300.00 secured by a second mortgage on the [redacted] Property.
24. On or about October 12, 2004, Respondent completed a Uniform Residential Loan Application (URLA) for [redacted]
25. [redacted] and Respondent knowingly and intentionally falsified information on the URLA to induce a lender to fund [redacted] purchase of the [redacted] Property. The falsified information included, but is not limited to the following:
- a. The fact that [redacted] intended to use the [redacted] Property as her primary residence;
 - b. The name of [redacted] employer (upon information and belief, there is not a company named "Flint Leasing" at the address indicated in the URLA);
 - c. The amount of funds in [redacted] bank account;
 - d. The value of [redacted] personal assets;

e. The source of funds required at closing; and

f. monthly income.

26. Respondent also misrepresented the fact that he was employed by Premiere.

27. Based on the information contained in the URLA, Long Beach Mortgage Co. agreed to finance acquisition of the Property.

28. At the closing of the mortgage loan, Premier was paid broker and other fees of \$2,521.00. However, Premiere never received these funds. , an associate of Respondent, signed the check made payable to Premiere and cashed it at a convenience store known as Beecher Beer and Wine, owned by New Goldie, Inc.

29. Respondent and knew that they had no relationship with Premiere and not only misrepresented this to the detriment of the lender, Long Beach Mortgage Co., but they received broker and other fees in violation of the law.

30. OFIS incorporates by reference the statements set forth in paragraphs 1-29 above as though fully set forth herein.

31. The second property that purchased as a straw buyer is commonly known as Flint, MI (Property). The mortgage loan for this property closed on or about October 29, 2004.

32. Upon information and belief, Respondent and conspired a second time to defraud lenders by completing a Uniform Residential Loan Application (URLA) for McCaster's purchase of the Property.

33. The seller of the Property was _____ company, Flint Redemption LLC. Upon information and belief, Respondent worked for _____ or with him.

34. _____ agreed to purchase the Property for \$65,000.00.

35. The URLA completed by Respondent and _____ contains numerous material misrepresentations, including, but not limited to:

- a. The fact that _____ intended to use the Property as her primary residence;
- b. The name of _____ employer (upon information and belief, there is not a company named "Flint Leasing" at the address indicated in the URLA);
- c. The amount of funds in _____ bank account;
- d. The value of _____ personal assets;
- e. The source of funds required at closing;
- f. _____'s monthly income; and
- g. The fact that _____ had closed on the Property on or about October 12, 2004.

36. Respondent intentionally misrepresented that Premier was his employer.

37. Respondent and _____ knowingly and intentionally falsified information on the URLA in order to induce a lender to loan money to

38. Respondent knew that the information on the URLA was inaccurate and incomplete.

39. [redacted] fabricated an appraisal for the [redacted] Property to support the sale price of the property.
40. Based on the information provided by Respondent, [redacted] and [redacted], Decision One Mortgage Corporation agreed to finance [redacted] acquisition of the [redacted] Property.
41. Respondent knew that Premiere was not the broker of the [redacted] Property.
42. Respondent defrauded Decision One Mortgage Corporation.
43. Premiere received a check at the closing of the [redacted] Property in the amount of \$2,300.00, which was cashed by [redacted], an associate of Respondent's. Premiere never received any fees associated with this transaction.
44. The conduct of Respondent described herein constitutes fraud and Respondent should be prohibited from engaging in such conduct.

APPLICABLE LAWS AND PENALTIES

The following statutory sections are applicable to this Complaint and the Notice To Prohibit, which it supports:

Mortgage Brokers, Lenders, and Servicers Licensing Act, MCL 445.1651 et seq.

Section 2 of the Mortgage Broker, Lenders, and Servicers Licensing Act, MCL 445.1652 provides as follows:

- (1) A person shall not act as a mortgage broker, mortgage lender, or mortgage servicer without first obtaining a license or registering under this act....

Section 11 of the Mortgage Broker, Lenders, and Servicers Licensing Act, MCL 445.1661 provides as follows:

- (1) The commissioner shall exercise general supervision and control over mortgage brokers, mortgage lenders, and mortgage servicers doing business in this state.

- (2) In addition to the other powers granted to the commissioner by this act, the commissioner shall have all of the following powers:

- (k) To issue an order to prohibit a person from being employed by, an agent of, or control person of a licensee or registrant as provided under section 18a.

Section 18a of the Mortgage Brokers, Lenders, and Servicers Licensing Act, MCL 445.1668, provides as follows:

- (1) If in the opinion of the commissioner a person has engaged in fraud, the commissioner may serve upon that person a written notice of intention to prohibit that person from being employed by, an agent of, or control person of a licensee or registrant under this act or a licensee or registrant under a financial licensing act. For purposes of this section, "fraud" shall include actionable fraud, actual or constructive fraud, criminal fraud, extrinsic or intrinsic fraud, fraud in the execution, in the inducement, in fact, or in law, or any other form of fraud.
- (2) A notice issued under subsection (1) shall contain a statement of the facts supporting the prohibition and, except as provided under subsection (7), set a hearing to be held not more than 60 days after the date of the notice. **If the person does not appear at the hearing, he or she is considered to have consented to the issuance of an order in accordance with the notice.** (Emphasis added).
- (3) If after a hearing held under subsection (2) the commissioner finds that any of the grounds specified in the notice have been established, the commissioner may issue an order of suspension or prohibition from being a licensee or registrant or from being employed by, an agent of, or control person of any licensee or registrant under this act or a licensee or registrant under a financial licensing act.
- (4) An order issued under subsection (2) or (3) is effective upon service upon the person. The commissioner shall also serve a copy of the order upon the licensee or registrant of which the person is an employee, agent, or control person. The order remains in effect until it is stayed, modified, terminated, or set aside by the commissioner or a reviewing court.
- (5) After 5 years from the date of an order issued under subsection (2) or (3), the person subject to the order may apply to the commissioner to terminate the order.
- (6) If the commissioner considers that a person served a notice under subsection (1) poses an imminent threat of financial loss to applicants for mortgage loans, the commissioner may serve upon the person an order of suspension from being employed by, an agent of, or control person of any licensee or registrant. The suspension is effective on the date the order is issued and, unless stayed by a court, remains in effect pending the completion of a review as provided under this section and the commissioner has dismissed the charges specified in the order.

(7) Unless otherwise agreed to by the commissioner and the person served with an order issued under subsection (6), the hearing required under subsection (2) to review the suspension shall be held not earlier than 5 days or later than 20 days after the date of the notice.

(8) If a person is convicted of a felony involving fraud, dishonesty, or breach of trust, the commissioner may issue an order suspending or prohibiting that person from being a licensee or registrant and from being employed by, an agent of, or control person of any licensee or registrant under this act or a licensee or registrant under a financial licensing act. After 5 years from the date of the order, the person subject to the order may apply to the commissioner to terminate the order.

(9) The commissioner shall mail a copy of any notice or order issued under this section to the licensee or registrant of which the person subject to the notice or order is an employee, agent, or control person.

Section 18b of the Mortgage Brokers, Lenders, and Servicers Licensing Act, MCL 445.1668b, provides as follows:

(1) A hearing under section 16 or 18a shall be conducted under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Within 30 days after the commissioner has notified the parties that the case has been submitted to him or her for final decision, the commissioner shall render a decision that shall include findings of fact supporting the decision and serve upon each party to the proceeding a copy of the decision and an order consistent with the decision.

(2) Except for a consent order, a party to the proceeding, or a person affected by an order issued under section 16 or 18a may obtain a judicial review of the order. A consent order may be reviewed as provided under the administrative procedures act of 1969, 1969 PA 306, MCL 24.201 to 24.328. Except for an order under judicial review, the commissioner may terminate or set aside any order. The commissioner may terminate or set aside an order under judicial review with the permission of the court.

(3) Unless ordered by the court, the commencement of proceedings for judicial review under subsection (2) does not stay the commissioner's order.

Administrative Procedures Act

Section 71 of the Administrative Procedures Act of 1969, MCL 24.271, provides in relevant part as follows:

(1) The parties in a contested case shall be given an opportunity for a hearing without undue delay.

(2) The parties shall be given a reasonable notice of the hearing, which notice shall include:

- (a) A statement of the date, hour, place, and nature of the hearing. Unless otherwise specified in the notice the hearing shall be held at the principal office of the agency.
- (b) A statement of the legal authority and jurisdiction under which the hearing is to be held.
- (c) A reference to the particular sections of the statutes and rules involved.
- (d) A short and plain statement of the matters asserted. If the agency or other party is unable to state the matters in detail at the time the notice is given, the initial notice may state the issues involved. Thereafter on application the agency or other party shall furnish a more definite and detailed statement on the issues.

Section 92 of the Administrative Procedures Act of 1969, MCL 24.292, provides as follows:

- (1) Before the commencement of proceedings for suspension, revocation, annulment, withdrawal, recall, cancellation or amendment of a license, an agency shall give notice, personally or by mail, to the licensee of facts or conduct which warrant the intended action. Except as otherwise provided in the support and parenting time enforcement act, Act No. 295 of the Public Acts of 1982, being sections 552.601 to 552.650 of the Michigan Compiled Laws, or the regulated occupations support enforcement act, the licensee shall be given an opportunity to show compliance with all lawful requirements for retention of the license.
- (2) If the agency finds that the public health, safety or welfare requires emergency action and incorporates this finding in its order, summary suspension of a license may be ordered effective on the date specified in the order or on service of a certified copy of the order on the licensee, whichever is later, and effective during the proceedings. The proceedings shall be promptly commenced and determined.

RIGHTS AND PROCEDURES

COUNSEL: A party has the right to be represented by counsel. If a party is represented, counsel is directed to file an appearance promptly. The address provided will be the official address for service of documents regarding this matter.

When a party chooses to proceed without counsel, he or she will be held to the same standards as an attorney, including a reasonable knowledge of the rules of evidence as applied in nonjury circuit court civil cases and knowledge of other relevant laws and procedures.

FAILURE TO APPEAR: If a party fails to appear at the hearing, and the hearing has not been adjourned, the party in attendance may be permitted to proceed with its case and

the Commissioner may issue a decision without the participation of the absent party. Failure to appear may also result in a final decision entered against the party by default in which the allegations in the Complaint are taken as true.

ADJOURNMENTS: All motions and requests for an adjournment shall be in writing and shall concisely state the reasons why an adjournment is necessary. No motion or request for an adjournment or a continuance will be considered unless it is filed at least 5 days prior to the hearing date except upon good cause shown.



Richard D. Lavolette
Chief Deputy Commissioner

Date Signed: 12-15-06

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On February 16, 2007, the Petitioner filed a Motion for Final Decision by Default. Given Respondent's failure to comply with the Order to Respond, Petitioner's motion is granted.

The factual allegations and conclusions of law stated in the complaint are adopted and made part of this Final Decision.

ORDER

In accordance with section 18a of the Mortgage Brokers, Lenders, and Servicers Licensing Act (MCL 445.1668a) it is ordered that the Respondent is prohibited from being employed by, an agent of, or control person of a licensee or registrant under the Mortgage Brokers, Lenders, and Servicers Licensing Act or a licensee or registrant under a financial licensing act.



Linda A. Watters
Commissioner